

Appl. No. 09/686,563  
Amdt. dated February 24, 2005  
Reply to Office Action of November 24, 2004

PATENT

REMARKS/ARGUMENTS

Claims 1 and 11 were pending in this application. Claims 1 and 11 have been amended. No claims have been added or cancelled. Hence, claims 1 and 11 remain pending. Reconsideration of the subject application is respectfully requested.

Claims 1 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the cited portions of U.S. Patent No. 6,633,545 to Milbrandt, et al. (hereinafter "Milbrandt"), and further in view of the cited portions of U.S. Patent No. 5,404,400 to Hamilton, et al. (hereinafter "Hamilton").

Claims 1 and 11 have been amended to more clearly recite the Applicants' claimed invention. No new matter has been added.

Claim Rejections Under 35 U.S.C. § 103(a)

The Applicants respectfully traverse the rejections of claims 1 and 11 because the prior art references do not teach or suggest all the claim limitations.

Claim 11 includes the limitation "recording an entry relating to the classification in a database, wherein the entry includes the classification for the terminating connection as either an analog modem, a facsimile machine, an ISDN modem, or a voice connection" (emphasis added). The Office Action states that this limitation is taught by Fig. 4, reference numeral 406 of Milbrandt. Column 406 of Fig. 4 fails to teach the recited limitation for several reasons as described immediately hereinafter.

Milbrandt relates to testing subscriber lines, not to classifying a terminating connection at a subscriber's premises as the Applicants claim. Nowhere does Milbrandt teach that the entry in column 406 relates to the classification of the terminating connection at the subscriber's premises. In fact, quite the opposite is true. At Column 24, the only location at which Milbrandt mentions reference numeral 406, Milbrandt teaches that column 406 indexes "the communication protocol with which the particular modem 60 attempts to operate." Modem 60 is located at central office 14 and not at a subscriber's premises. Hence, the information in column 406 of Fig. 4 has nothing to do with a classification for a terminating connection. For at

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least the foregoing reasons, claim 11 is believed to be allowable over the cited references. Claim 1 includes similar limitations and is believed to be allowable for at least the same reasons.

Moreover, the office action has not provided a clear line of reasoning to show that one would be motivated to combine the reference teachings. The office action appears to argue that because Hamilton mentions detecting a fax machine and because a fax transmission occurs over telephone lines, which Milbrandt teaches monitoring, one would be motivated to combine the reference teachings. This does not address the *desirability* of the combination, which is necessary to establish a motivation to combine references. As stated previously, there is no teaching anywhere within the cited references that someone employing the teachings of Milbrandt to test subscriber lines would desire to determine whether a facsimile machine resides on the terminating connection of the line. The motivation arises only in light of the Applicant's teachings, and to suggest the motivation is present in the prior art amounts to impermissible hindsight. Hence, claims 1 and 11 are believed to be allowable for this additional reason.

The Applicants have amended the claims in an attempt to further distinguish the claimed invention over the prior art. If, however, the Examiner believes further amendments are necessary to further distinguish the claimed invention over the cited references and move the case to allowance, the Applicants would appreciate the courtesy of an interview to discuss this prior to the Examiner acting on this amendment. An Request for Interview is provided herewith to formalize the request.

CONCLUSION

In view of the foregoing, the Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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